

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Magistrate Number: 07-309M

AFFIDAVIT FOR CRIMINAL COMPLAINT

I, Karen M. Szczepanski, being duly sworn, depose and
state as follows:

INTRODUCTION

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI). I have been employed as a Special Agent for the FBI since January of 2000. As part of my duties, I investigate violations of federal law, including the online exploitation of children, particularly in relation to violations of Title 18, United States Code, Sections 2252 and 2252A, which criminalize, among other things, the possession, receipt and transmission of child pornography, and 2422, which involves persuading, inducing, enticing, or coercing any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense. I have gained expertise in the conduct of such investigations through training in seminars, classes, and everyday work related to conducting these types of investigations. Specifically, I have obtained FBI Advanced Crimes Against Children training, FBI Innocent Images Online Undercover training, and FBI Innocent Images Peer-to-

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Peer Network Online Investigation training. Also, I have participated in the execution of numerous search warrants, of which approximately thirty (30) have involved child exploitation and/or child pornography offenses.

2. The subject of the criminal complaint is SCOTT FRANZ, of 2971 Ruthwood Avenue, Pittsburgh, PA, 15227, date of birth of June 5, 1980, and this affidavit is submitted in support of violations of Title 18, United States Code, Section 2422(b) (Coercion and Enticement of a Minor), and Title 18, United States Code, Section 2252(a)(2) (Distribution of Child Pornography).

3. The statements contained in this affidavit are based on my experience and background as an Agent with the FBI. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause for violations of Title 18, United States Code, Sections 2422(b) and (a)(2).

STATUTORY AUTHORITY

4. This affidavit is made in support of a criminal complaint for violations of Title 18, United States Code, Section 2422(b), which involves persuading, inducing, enticing, or coercing any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be

charged with a criminal offense; and, Section 2252(a)(2), which involves the distribution or transmission of child pornography via computer or any other means.

BACKGROUND

5. On November 20, 2006, Allegheny County Police Department Detective Corinne Orchowski provided multiple photographs of herself that were taken between the ages of fourteen (14) and seventeen (17). Detective Orchowski provided verbal consent for SA Marc S. Southland, Pittsburgh Division, FBI, to use these photographs in an undercover capacity, representing a fifteen (15) year old female residing in or around Pittsburgh, PA.

6. On May 24, 2007, SA Southland, in an undercover capacity, created an undercover user profile on www.yahoo.com, an online email service provider and an internet service provider. SA Southland created user profile "corrine_betty@yahoo.com", representing a fifteen (15) year old female residing in or around Pittsburgh, PA, and attached two photographs of Detective Orchowski, ages fourteen (14) and sixteen (16). In order to comply with Yahoo rules regarding access to chat room services, SA Southland was required to create a user profile with a minimum age of eighteen (18). In subsequent Instant Message chat conversations, however, I clarified that the actual age of the undercover persona of "corrine_betty" was fifteen (15).

7. On May 24, 2007, SA Southland, in an undercover

capacity, created an undercover user profile on www.myspace.com, a free service that utilizes the Internet for online communication. SA Southland created user profile "corrine_betty", representing a 15 year old female residing in or around Pittsburgh, PA, and attached two photographs of Detective Orchowski, ages fourteen (14) and sixteen (16). Based on experience with www.myspace.com, it is common practice for minors to initially provide an age over eighteen (18), which is required to gain access to MySpace group and search functionality. SA Southland initially listed an age for "corrine_betty" as twenty-four (24). In subsequent Instant Message chat conversations, SA Szczepanski clarified that the actual age of the undercover persona "corrine_betty" was fifteen (15).

8. On July 12, 2007, an individual identified as likemsmooth32@yahoo.com sent an instant message to corrine_betty@yahoo.com advising that he had seen the www.myspace.com profile of "corrine_betty". "Likemsmooth32" provided a www.myspace.com user profile of "Scott Franz" for review. During the course of the chat session, "likemsmooth32", commented on the picture posted on the "corrine_betty" profile, stating "u look 13" years old. Approximately seven times in the conversation "likemsmooth32" or "corrine_betty" referred to "corrine_betty"'s age as fifteen (15) years old. "Likemsmooth32" also stated, they could "meet for fun" "sexual fun". "likemsmooth32" inquired if they could meet the next afternoon.

"likemsmooth32" further described the explicit sexual act that he wanted to perform with "corrine_betty" and stated "i lovem young too," in reference to her relatively young age.

9. On July 13, 2007, "likemsmooth32" contacted "corrine_betty" on the Yahoo! instant messenger early in the morning. A few hours later, "corrine_betty" contacted "likemsmooth32" to inquire if he was on the internet. "likemsmooth32" answered "corrine_betty" six seconds later. In the conversation, "likemsmooth32" stated "really love to spend time with u right now" and a few minutes later said "jsut (sic) all alone here sexually frustrated lol" "dying to see u". "likemsmooth32" described sex toys and paraphernalia and stated "wow so much to teach u" and "this could be an educational day for u lol". On July 13, 2007, "likemsmooth32" also sent via computer and the internet the following pictures to "corrine_betty": one (1) image of an nude adult female with the photograph concentrated on the female's breasts; four (4) images of "likemsmooth32"'s penis; two (2) images of "likemsmooth32"'s nude body, which shows his penis and face; and two (2) images of nude pre-pubescent children, one (1) image being of three white females between the ages of eight and twelve years old, the other image or two white females between the ages of eight and twelve years old. Also in the conversation, "likemsmooth32" described the specific sexual acts that he wanted to perform on "corrine_betty" (including oral and

anal sex) and asked her to contact him at telephone number "412 881 0817". In this conversation, "likemsmooth32" acknowledges that "corrine_betty"'s age is fifteen years old. "Likemsmooth32" discusses photographing and filming sexual acts with "corrine_betty."

10. On July 16, 2007, a www.google.com search of "likemsmooth32" yielded the result of the email address scott3328@juno.com.

11. On July 18, 2007, an administrative subpoena issued by Assistant Special Agent in Charge (ASAC) Robert C. Rudge Jr., Pittsburgh Division, FBI, to Yahoo! Internet Services, returned subscriber information for user name "likemsmooth32", registered to Scott Franz, Pittsburgh, PA 15227 and alternate email address of scott3328@juno.com.

12. On July 18, 2007, an administrative subpoena issued by Assistant Special Agent in Charge (ASAC) Robert C. Rudge Jr., Pittsburgh Division, FBI, Juno Internet Services, returned subscriber information for email address, scott3328@juno.com as: Scott Franz, date of birth, June 5, 1980, address of 2971 Ruthwood Avenue, Pittsburgh, PA 15227, and home telephone number (412)881-0817.

13. On July 18, 2007, "likemsmooth32" again contacted "corrine_betty" via Yahoo! instant message. Although "corrine_betty" was not on the internet when the message was sent,

"corrine_betty" responded when she logged onto Yahoo! "Likemsmooth32" soon initiated a conversation with "corrine_betty". "Likemsmooth32" described sexual acts that he wanted to perform with "corrine_betty" and sought an in-person meeting, by asking "so when u think you might be free next time"? "Likemsmooth32" advised that he would meet "corrine_betty" the next day (July 19, 2007) at the Waterfront Shopping Center, Homestead, PA. "likemsmooth32" stated "jsut know that i would be so horny around u and how would we be able to do anything lol". Other conversations in this chat involved getting pregnant, birth control, sexually open relationships, and meeting again the following week. "Likemsmooth32" also asked "corinne_betty" to use a digital camera to photograph herself and her friend, possibly nude, and send them to him via computer.

14. On July 18, 2007, United States Postal Inspector Joseph Bellissimo, upon request from SA Szczepanski, advised that the individual identified as Scott Franz was currently receiving mail at 2971 Ruthwood Avenue, Pittsburgh, PA, 15227.

15. On July 16, 2007, undersigned affiant had received a report from Choicepoint AutoTrack XP, an online service provider of identification and credential verification. The Choicepoint AutoTrack XP database corroborated the following identifying information: Scott Franz, social security account number xxx-xx-3361, date of birth June 5, 1980, residing at 2971 Ruthwood Avenue,

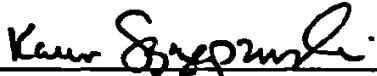
Pittsburgh, PA, 15227. The telephone number (412)881-0817 corresponded to the subscriber names of Scott Franz.

16. On July 19, 2007, "likemsmooth32" sent an instant message to "corrine_betty" via Yahoo! instant message. In the course of messaging, "likemsmooth32" provided further details about arranging a meeting with "corrine_betty" at the Waterfront Shopping Center, Homestead, PA, at Barnes and Noble, for 2:00 PM, for the purposes of engaging in illegal sexual activity, or facilitating illegal sexual activity with a minor. Surveillance was conducted on the home of Scott Franz. He was observed leaving his home in a red Kia "Sportage" station wagon, PA registration number FSA2962. Shortly after 2:00 PM, on July 19, 2007, Scott Franz was apprehended in Barnes and Noble at the Waterfront Shopping Center, Homestead, PA, the designated meeting place with what he believed to be a minor child of 15 years of age.


17. The National Crime Information Center (NCIC) provided the following positive results for Scott Franz, born June 6, 1980, social security account number xxx-xx-3361, height 5'10", Pennsylvania operator license number 25855494, and address of 2971 Ruthwood Avenue, Pittsburgh, PA 15227. Vehicles registered to Franz include but are not limited to a 2006 Kia station wagon, PA license plate number FSA2962. Criminal History and Registered Weapons for Franz returned negative results.

18. Based upon all the information set forth in this

application, your affiant respectfully submits that there is probable cause to believe that Scott Franz, using a computer located at 2971 Ruthwood Avenue, Pittsburgh, PA, 15227, violated Title 18, United States Code, Sections 2422(b) by knowingly using a facility of interstate commerce (his computer) to persuade, induce, entice, or coerce any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, and/or attempted to do so. Further, there is probable cause to believe that Scott Franz violated Title 18, United States Code, Section 2252(a)(2), by knowingly distributing any visual depiction that has been mailed, or has been shipped or transported in interstate commerce, or which contains materials which have been mailed or so shipped or transported, by any means, including by computer, that involved the use of a minor engaging in sexually explicit conduct, and the visual depiction is of such conduct.



Karen Szczepanski
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me this 19th of July 2007


Lisa Pupo Lenihan
United States Magistrate Judge